IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 563 OF 2005

M/s.Pankaj Steel Corporation. ... Petitioner.

V/s.

The Union of India and others. ... Respondents.

Prakash Shah i/b. M/s.DSK Legal for the petitioner.

S.M.Shah with Y.R.Mishra for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 15th April 2005.

P.C. :

. Heard.

. By consent of parties, the impugned order dated 25th February, 2004 rejecting appeal of the petitioner for the reasons stated therein is set aside since the order was passed by the Tribunal without considering the issue of grant of leave to file appeal. In pursuance of the law laid down by the Apex Court in the case of **Smt.Jatankanwar v. Golcha Properties** - AIR 1971 SC 374, it was obligatory on the part of the petitioner to seek leave of the Court or Tribunal demonstrating prejudice suffered by it. Upon such demonstration, it is for the Tribunal to consider the prayer to grant or refuse to grant leave. Once leave is

granted, the merits of the challenge can be gone into in the appeal. Since this procedure or formalities have not been complied with by the Tribunal, we remit this matter back to the Tribunal with liberty to the petitioner to move to seek appropriate leave from the Tribunal in the same appeal. In the event of such application being made, the Tribunal shall consider the same on its own merits without being influenced by the reasons recorded in the impugned order.

. The petition stands disposed of in terms of this order with no order as to costs.

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